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Dkt. 68262-A/JPW/PJP

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Peter Brink et al.
Serial No. : 10/757,827
Filed : January 15, 2004
For : **MESENCHYMAL STEM CELLS AS A VEHICLE FOR ION
CHANNEL TRANSFER**

1185 Avenue of the Americas
New York, New York 10036
August 20, 2004

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

SIR:

**COMMUNICATION IN RESPONSE TO NOTICE OF INCOMPLETE REPLY
(NONPROVISIONAL) AND CONDITIONAL
PETITION FOR TWO-MONTH EXTENSION OF TIME**

This Communication is in response to a Notice Of Incomplete Reply issued August 22, 2004 (Exhibit A).

The Notice of Incomplete Reply indicated that the drawings filed June 22, 2004 in response to the Notice to File Missing Parts (NFMP) were allegedly not acceptable. This Notice stated that the replacement drawings submitted to the Office are not electronically reproducible and that drawings sheets must be submitted on paper, which is flexible, strong, white, smooth, non-shiny, and durable in accordance with 37 C.F.R. 1.84(e).

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The Notice of Incomplete Reply also indicated that the period for responding to the NFMP continued to run.

Applicant maintains that the drawings submitted on June 22, 2004 complied with 37 C.F.R. §1.84 and 37 C.F.R. 1.121 because the drawing sheets were submitted on paper which was flexible, strong, white, smooth, non-shiny and durable, and were electronically reproducible. The drawings submitted on June 22, 2004 comprise two sets. Both sets included images of slides. One set included photographs, and another set included photocopies of those photographs. Applicant believes that both sets were compliant. It is not clear from the Notice of Incomplete Reply whether the Office considered both sets that were submitted.

On August 5, 2004, the undersigned's assistant Ms. Yadira Green spoke with Mr. Steven Fields at the Patent Office to explain that applicant's drawings were believed to be compliant. Mr. Fields requested that the same drawings be resubmitted, directly to his attention. Applicant attaches as Exhibit B the same two sets of drawings previously submitted.

Applicant believes that no extension fee is required in response to the Notice. However, if an extension fee is deemed due, Applicant petitions for a two-month extension of time, from June 22, 2004 to August 22, 2004, to respond to the Notice. Because August 22, 2004 falls on a Sunday, a response is considered timely if filed on the next business day which is Monday, August 23, 2004. Accordingly, this response is timely filed. Small entity status has been previously established. Please charge deposit account no. 03-3125 the amount of any required fee.

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No additional fee other than possibly the additional two-month extension fee of \$210, is deemed necessary in connection with this Communication. In the event that any additional fee is required, authorization is hereby given to charge the amount of any such fee to Deposit Account 03-3125.

Respectfully submitted,



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